S.B.Civil Writ Petition NO.26/2003

Moti Lal

vs

State of Rajasthan & Anr.

DATE OF ORDER : - 2.2.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. M.C.Bhoot, for the petitioner.
Mr. Yaswant Mehta, for the respondents.

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Heard learned counsel for the parties.

The petitioner is aggrieved against the demand, which has been raised by the non-petitioner no.2 vide Ex.1 dated 4th March, 2002. By the said communication Ex.1 dated 4th March, 2002, the respondent no.2 demanded Rs.27,000/- on account of the land conversion fees. However, in the Ex.1 dated 4th March, 2002 nothing has been mentioned why the demand has been raised against the petitioner except describing it as conversion charges. It is not mentioned whether it is a demand created because the petitioner has already converted his land to commercial purposes or this demand has been raised for converting the petitioner's land from any other category to commercial land. The

petitioner is also aggrieved against the notice of the respondent no.2 dated 23rd Oct., 2002 Ex.2 by which the petitioner was directed not to put shutter on the shop.

According to learned counsel for the petitioner, the land in question was purchased from the erstwhile ruler and for that purpose a 'Patta' was issued. The 'Patta' was issued without reserving its use for particular purpose. Therefore, the petitioner got right to use the land for any purpose. The respondents are demanding conversion charges from the petitioner without there being any rhyme and reason. According to learned counsel for the petitioner, the respondents even issued a notice restricting the petitioner to change the gate of the shop, which shows the total malafides of the respondent no.2.

Learned counsel for the respondent submits that in view of the Section 173A of the Rajasthan Municipalities Act, the petitioner cannot use the land in question for commercial purposes unless it is got converted for that purpose.

Learned counsel for the petitioner relied upon the judgments of this court delivered in the case of Lalit Kumar Bothra Vs. Municipal Board, Sheoganj reported in 2001 WLC (Raj) UC 152 and S.B.Civil Writ Petition No.4197/2002-Kishan Lal Pungaliya Vs. Municipal Corporation,

Jodhpur & Anr, decided on 17.12.2002. Learned counsel for the petitioner submits that in either case, as per the unamended law and as per the amended law after the notification dated 30th Sept, 1991 was published, no conversion charges can be levied on the land of the petitioner for which Patta was issued to the petitioner.

I considered the submissions of learned counsel for the parties. The copy of the 'Patta' has been placed on record as Annex.6, which contains absolute transfer of the property in favour of one Ratanchand. The petitioner is the ultimate purchaser of the property and the 'Patta' issued in favour of the petitioner's predecessor has not been issued for use of land for any particular purpose.

In view of the Division Bench decision of this court delivered in the case of Municipal Corporation Vs. Raj Kumar & Anr. reported in 2000 DNJ 485 and considered in the case of Lalit Kumar Bothra Vs. Municipal Board, Sheoganj reported in 2001 WLC (Raj) UC 152, the writ petition of the petitioner deserves to be allowed and it is held that no conversion charges for the land in dispute can be levied and demanded from the petitioner by the respondent no.2. It will be worthwhile to mention here that in the case of Lalit Kumar Bothra (supra) the effect of the amendment made by the notification dated 30th Sept., 1999 was also considered and, thereafter, it has been held that if there was no

restriction in the Patta when it was issued then the Patta holder can use the land without any restriction.

In view of the above, the writ petition of the petitioner is allowed. The demand as created by Ex.1 dated 4th March, 2002 so far as it relates to the conversion charges is quashed and set aside. The notice dated 23rd Oct., 2002 Ex.2 is also quashed and set aside. The respondent no.2 shall not demand any conversion charges from the petitioner.

(Prakash Tatia), J.

c.p.goyal/-